FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

OCT 28 2005

JAMES R. LARSEN, CLERK
_______________DEPUTY
RICHLAND, WASHINGTON

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WASHINGTON
AT RICHLAND

James S. Gordon, Jr., Plaintiff, vs. Impulse Marketing Group, Inc., Defendant Impulse Marketing Group, Inc., Third-Party Plaintiff, v. Emily H. Abbey, Third-Party Defendant	Case No.: CV-04-5125-FVS **JOINT STATUS CERTIFICATE AND RULE 26(f) DISCOVERY PLAN**

TO: Clerk of the Court

AND TO: Floyd E. Ivey, Attorney for Third-Party Plaintiff

Dockets.Justia.com

Pursuant to the request of the court, the parties to this action have prepared unilateral status certifications. Third-party defendant phoned Mr. Ivey for the purpose of conducting a joint status conference. However, Mr. Ivey had already prepared his version of a joint status certificate without consulting me. Therefore, the undersigned's input to this process is as follows:

(a) Service of process on parties:

To the best of my knowledge all third-party defendants have been served. Additionally, each third-party defendant has made her or his own written request of Mr. Ivey to postpone the submission of an answer to the complaint of third-party plaintiff until the Court has ruled on the motion of plaintiff to dismiss third-party defendants from this lawsuit. Mr. Ivey has not responded to any of the six third-party defendants' request to stipulate to postponing its answer. In fact, counsel for third-party plaintiff has advised Mr. McKinley that IMG will be filing motions for default against third-party defendants without extending the courtesy of responding to each third-party defendant's good faith effort to provide third-party plaintiff with an answer. However, with the possibility of a potential dismissal of third-party defendants from the lawsuit, it is prudent to await the Court's decision as it may preclude the need for an answer.

(b) Jurisdiction and Venue:

The parties to this action acknowledge that personal jurisdiction is proper in this district, and that venue is not contested.

(c) Anticipated motions:

Each of the parties anticipates motions for summary judgment motions on various issues in this case and Plaintiff's Motion to Dismiss and in the Alternative for Summary Judgment is pending for hearing November 2, 2005. Third-party defendant may file a motion to dismiss.

(d) Rule 26(f) Conference:

Third-party defendant will research the FRCP to determine its obligations under this and other relevant rules. Parties have not met nor teleconferenced regarding the specifics of this status certificate.

1. Third-party defendant is not certain if changes should be made in the timing, form, or requirement for disclosures under subdivision (a) or local rule.
2. Discovery may be needed on all subjects contemplated under the claims and defenses pled in this action. Discovery should not be conducted in phases. However, it should be limited to or focused on specific issues.
3. No changes should be made in the limitations on discovery imposed under the Federal Rules of Civil Procedure or by local rules.
4. No other orders should be entered by the court under FRCP 16(c) or under Rule 16(b) at this time. Parties may seek orders in the future based upon future discovery requests.
5. Third-party defendant is opposed to a protective order.

(e) Recommended Dates:

1. **Discovery Cutoff:** The third-party defendant requests a discovery cutoff date of January 28, 2006.

2. **Pretrial Conference:** The date of pretrial conference should be set as the Court determines based upon the trial date.

3. **Length of Trial:** The trial could take 15-20 days or more as third-party defendant reserves rights to affirmative defenses and counterclaims of her own.

4. **Trial Date:** The parties request a trial date of approximately 12 weeks following the discovery cutoff, which would be approximately April 28, 2006.

5. **Other deadlines:** Third-party defendant is not aware of any other deadlines besides the ones in this document.

(f) Appropriateness of special proceedings:

Third-party defendant is not aware of special procedures, which would be appropriate for this action.

(g) Modification of standard pretrial procedure:

All pleadings and motions must be served upon third-party defendant via U.S. mail.

(h) Feasibility of Bifurcation/Structure of Sequence of Trial:

The parties do not seek special structuring of the trial. The parties do not believe bifurcation is advisable in this case.

(i) Magistrate Judge:

The parties to this case do not consent to trial of this action by a full-time United States Magistrate Judge.

(j) Prospects for Settlement:

The parties have not engaged in any settlement negotiations.

(k) Other Matters Conducive to the Efficient Adjudication of the Action:

Other than the issues stated above, the parties do not at this time suggest any other matters conducive to the just, efficient, or economical adjudication of the action or proceeding.

Emily H. Abbey
1407 2nd Ave. W Apt. 608
Seattle, WA 98119
206-217-0466

Dated this 25th day of October, 2005

Emily H Abbey